

ASSEMBLY BILL

No. 1826

Introduced by Assembly Member Migden

January 22, 2002

An act to amend Section 1374.55 of the Health and Safety Code, and to amend Section 10119.6 of the Insurance Code, relating to health coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as introduced, Migden. Health coverage: infertility treatment.

Existing law provides for the regulation of health care service plans by the Department of Managed Health Care and for the regulation of disability insurers by the Department of Insurance. Under existing law, a violation of the provisions regulating health care service plans is punishable as a crime.

Existing law requires a health care service plan and a disability insurer to offer coverage of treatment for infertility, as defined, excluding in vitro fertilization, under the terms and conditions agreed upon between the group contractholder and plan or between the group policyholder and insurer. Under existing law, a plan or insurer is required to communicate the availability of this coverage to, respectively, group contractholders or policyholders with whom it is negotiating.

This bill, instead, would require a health care service plan and a disability insurer to provide coverage of treatment for infertility on the same terms and conditions as other benefits and without lifetime caps or other restrictions. The bill would also delete the exception made in existing law for in vitro fertilization and would expand the definition

of infertility for coverage purposes. The bill would also require a plan and insurer to describe this coverage in writing to all current and prospective contractholders, policyholders, enrollees, and insureds.

Because this bill would specify additional coverage terms applicable to a health care service plan, the violation of which is punishable as a criminal offense, it would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1374.55 of the Health and Safety Code
- 2 is amended to read:
- 3 1374.55. (a) ~~On and after January 1, 1990, every~~ (1) Every
- 4 health care service plan contract ~~which~~ *that* is issued, amended, or
- 5 renewed ~~that~~ *and* covers hospital, medical, or surgical expenses on
- 6 a group basis, ~~where if~~ the plan is not a health maintenance
- 7 organization as defined in Section 1373.10, shall ~~offer~~ *provide*
- 8 coverage for the treatment of infertility, ~~except in vitro~~
- 9 fertilization, ~~under those terms and conditions as may be agreed~~
- 10 ~~upon between the group subscriber and the plan. Every~~ *This*
- 11 *coverage shall be provided on the same terms and conditions as*
- 12 *other benefits provided under the plan and shall not be subject to*
- 13 *lifetime caps or other restrictions.*
- 14 (2) Every plan shall communicate *in writing* the availability of
- 15 that coverage to all group contractholders and *enrollees* by
- 16 *describing the circumstances under which it is provided and by*
- 17 *including this description in each explanation of the plan's*
- 18 *coverage provided to all prospective group contractholders with*
- 19 ~~whom they are negotiating~~ *and enrollees.*
- 20 (b) For purposes of this section, ~~“infertility”~~ *the following*
- 21 *definitions apply:*
- 22 (1) “Infertility” means ~~either (1) the~~ *any of the following:*

1 (A) *The presence of a demonstrated condition recognized by a*
2 *licensed physician and surgeon as a cause of infertility, or (2) the.*

3 (B) *The inability of a female under the age of 35 to conceive a*
4 *pregnancy or to carry a pregnancy to a live birth after a year or*
5 *more of regular sexual relations without contraception.*

6 ~~“Treatment~~

7 (C) *The inability of a female who is 35 or older to conceive a*
8 *pregnancy or to carry a pregnancy to a live birth after six months*
9 *or more of regular sexual relations without contraception.*

10 (D) *The inability to conceive a pregnancy or to carry a*
11 *pregnancy to a live birth after six months of attempting to establish*
12 *a pregnancy through means other than intercourse.*

13 (2) ~~“Treatment for of infertility” means procedures consistent~~
14 ~~with established medical practices in the treatment of infertility by~~
15 ~~licensed physicians and surgeons including, but not limited to,~~
16 ~~diagnosis, diagnostic tests, medication, surgery, and or any other~~
17 ~~procedure involving the implementation of a gamete intrafallopian~~
18 ~~transfer, zygote, or embryo. “In vitro fertilization” means the~~
19 ~~laboratory medical procedures involving the actual in vitro~~
20 ~~fertilization process.~~

21 ~~(c) On and after January 1, 1990, every~~ Every health care
22 ~~service plan which that is a health maintenance organization, as~~
23 ~~defined in Section 1373.10, and which that issues, renews, or~~
24 ~~amends a health care service plan contract that provides group~~
25 ~~coverage for hospital, medical, or surgical expenses shall offer~~
26 ~~provide the coverage specified in subdivision (a), according to the~~
27 ~~terms and conditions that may be agreed upon between the group~~
28 ~~subscriber and the plan to group contractholders with at least 20~~
29 ~~employees to whom the plan is offered. The plan shall~~
30 ~~communicate the availability of the coverage to those group~~
31 ~~contractholders and prospective group contractholders with whom~~
32 ~~the plan is negotiating. Every plan shall communicate in writing~~
33 ~~the availability of that coverage to all group contractholders and~~
34 ~~enrollees by describing the circumstances under which it is~~
35 ~~provided and by including this description in each explanation of~~
36 ~~the plan’s coverage provided to prospective group contractholders~~
37 ~~and enrollees.~~

38 (d) Nothing in this section shall be construed to deny or restrict
39 in any way any existing right or benefit to coverage and treatment
40 of infertility under an existing law, plan, or policy.

(e) Nothing in this section shall be construed to require any employer that is a religious organization to ~~offer~~ *provide* coverage for forms of treatment of infertility in a manner inconsistent with the religious organization's religious and ethical principles.

(f) Nothing in this section shall be construed to require any plan, which is a subsidiary of an entity whose owner or corporate member is a religious organization, to ~~offer~~ *provide* coverage for treatment of infertility in a manner inconsistent with that religious organization's religious and ethical principles.

For purposes of this subdivision, "subsidiary" of a specified corporation means a corporation more than 45 percent of the voting power of which is owned directly, or indirectly through one or more subsidiaries, by the specified corporation.

SEC. 2. Section 10119.6 of the Insurance Code is amended to read:

10119.6. (a) ~~On and after January 1, 1990, every~~ (1) Every insurer issuing, renewing, or amending a policy of disability insurance ~~which that~~ covers hospital, medical, or surgical expenses on a group basis shall ~~offer~~ *provide* coverage of infertility treatment, ~~except in vitro fertilization, under those terms and conditions as may be agreed upon between the group policyholder and the insurer. Every~~ *This coverage shall be provided on the same terms and conditions as other benefits provided under the policy and shall not be subject to lifetime caps or other restrictions.*

(2) Every insurer shall communicate *in writing* the availability of that coverage to all group policyholders and *insureds by describing the circumstances under which it is provided and by including this description in each explanation of the policy's coverage provided to all prospective group policyholders with whom they are negotiating and insureds.*

(b) For purposes of this section, "~~infertility~~" *the following definitions apply:*

(1) "*Infertility*" means ~~either (1) the~~ *any of the following:*

(A) *The presence of a demonstrated condition recognized by a licensed physician and surgeon as a cause of infertility, or (2) the*

(B) *The inability of a female under the age of 35 to conceive a pregnancy or to carry a pregnancy to a live birth after a year or more of regular sexual relations without contraception.*

~~"Treatment~~

(C) *The inability of a female who is age 35 or older to conceive a pregnancy or to carry a pregnancy to a live birth after six months or more of regular sexual relations without contraception.*

(D) *The inability to conceive a pregnancy or to carry a pregnancy to a live birth after six months of attempting to establish a pregnancy through means other than intercourse.*

(2) *“Treatment for of infertility” means procedures consistent with established medical practices in the treatment of infertility by licensed physicians and surgeons including, but not limited to, diagnosis, diagnostic tests, medication, surgery, and or any other procedure involving the implementation of a gamete intrafallopian transfer. “In vitro fertilization” means the laboratory medical procedures involving the actual in vitro fertilization process, zygote, or embryo.*

(c) Nothing in this section shall be construed to deny or restrict in any way any existing right or benefit to coverage and treatment of infertility under an existing law, plan, or policy.

(d) Nothing in this section shall be construed to require any employer that is a religious organization to ~~offer~~ provide coverage for forms of treatment of infertility in a manner inconsistent with the religious organization’s religious and ethical principles.

(e) Nothing in this section shall be construed to require any insurer, which is a subsidiary of an entity whose owner or corporate member is a religious organization, to ~~offer~~ provide coverage for treatment of infertility in a manner inconsistent with that religious organization’s religious and ethical principles.

For purposes of this subdivision, “subsidiary” of a specified corporation means a corporation more than 45 percent of the voting power of which is owned directly, or indirectly through one or more subsidiaries, by the specified corporation.

(f) This section applies to every disability insurance policy ~~which~~ that is issued, amended, or renewed to residents of this state regardless of the situs of the contract.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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